

STATE OF NEW YORK
CITY OF NEW ROCHELLE

X

In the Matter of the Disciplinary
Charges Preferred by

CHARGES AND
SPECIFICATIONS

CAPTAIN KEVIN KEALY

- against -

POLICE OFFICER JOSEPH POGGIOLEI

X

Pursuant to section 75 of the Civil Service Law and the Rules and Regulations of the New Rochelle Police Department, disciplinary charges are hereby preferred against you as follows:

CHARGE I - MISCONDUCT

Specification 1

Violation of Department Rules and Regulations

On April 20, 2005 you made an entry in the special duty sign out log indicating that you signed out for special duty work at Coligni Avenue and Webster Avenue at 1200 hours and returned to Police Headquarters from the special duty at 1530 hours. You also submitted a request for three and one-half hours of overtime pay for special duty work allegedly performed by you at Coligni and Webster Avenues from 1200 hours to 1530 hours on April 20, 2005. You did not work the full time from 1200 hours to 1530 hours on April 20, 2005 at this special detail. The above conduct brings the Department into disrepute or reflects discredit upon the officer as a member of the Department or impairs the operation or efficiency of the Department or officer, and constitutes conduct unbecoming an officer in violation of Section 2.1 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

CHARGE II - MISCONDUCT

Specification 1

Violation of Department Rules and Regulations

On April 20, 2005 you made an entry in the special duty sign out log indicating that you signed out for special duty work at Coligni Avenue and Webster Avenue at 1200 hours and returned to Police Headquarters from the special duty at 1530 hours. You also submitted a request for three and one-half hours of overtime pay for special duty work allegedly performed

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by you at Coligni and Webster Avenues from 1200 hours to 1530 hours on April 20, 2005. You did not work the full time from 1200 hours to 1530 hours on April 20, 2005 at this special detail. The above conduct in seeking compensation for time not worked involves moral turpitude that impairs your ability to perform as a law enforcement officer or causes the Department to be brought into disrepute, in violation of Section 2.2 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

CHARGE III - MISCONDUCT

Specification 1

Violation of Department Rules and Regulations

On April 20, 2005 you made an entry in the special duty sign out log indicating that you signed out for special duty work at Coligni Avenue and Webster Avenue at 1200 hours and returned to Police Headquarters from the special duty at 1530 hours. You also submitted a request for three and one-half hours of overtime pay for special duty work allegedly performed by you at Coligni and Webster Avenues from 1200 hours to 1530 hours on April 20, 2005. You did not work the full time from 1200 hours to 1530 hours on April 20, 2005 at this special detail. You sought and received compensation for the full period of time from 1200 hours to 1530 hours on April 20, 2005 although you did not work the full period of time you reported having worked. Your conduct constitutes Petit Larceny as described in Section 155.25 of the New York Penal Law. Your conduct constitutes a violation of a law of this State and is a violation of Section 2.3 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

CHARGE III - MISCONDUCT

Specification 2

Violation of Department Rules and Regulations

On April 20, 2005 you made an entry in the special duty sign out log indicating that you signed out for special duty work at Coligni Avenue and Webster Avenue at 1200 hours and returned to Police Headquarters from the special duty at 1530 hours. You did not work the full time from 1200 hours to 1530 hours on April 20, 2005 at this special. You thus made a false entry or false entries on the special duty sign out log for April 20, 2005, a New Rochelle Police Department business record. Your conduct constitutes Falsification of a Business Record in the Second Degree in violation of Section 175.05 of the New York Penal Law. Your conduct constitutes a violation of a law of this State and is a violation of Section 2.3 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

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John J. Kelly
Communications and Records Bureau

CHARGE III - MISCONDUCT

Specification 3

Violation of Department Rules and Regulations

You submitted a request for three and one-half hours overtime pay for special duty work allegedly performed by you at Coligni and Webster Avenues from 1200 hours to 1530 hours on April 20, 2005. You did not work the full time from 1200 hours to 1530 hours on April 20, 2005 at this special detail. You thus made a false entry or false entries on your overtime request for April 20, 2005, a New Rochelle Police Department record. Your conduct constitutes Falsification of a Business Record in the Second Degree in violation of Section 175.05 of the New York Penal Law. Your conduct constitutes a violation of a law of this State and is a violation of Section 2.3 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

CHARGE IV - MISCONDUCT

Specification 1

Violation of Department Rules and Regulations

On April 20, 2005 you made an entry in the special duty sign out log indicating that you signed out for special duty work at Coligni Avenue and Webster Avenue at 1200 hours and returned to Police Headquarters from the special duty at 1530 hours. You also submitted a request for three and one-half hours of overtime pay for special duty work allegedly performed at Coligni and Webster Avenues from 1200 hours to 1530 hours on April 20, 2005. You did not work the full time from 1200 hours to 1530 hours on April 20, 2005 at this special detail that you reported working. You thus failed or neglected to make an accurate entry or entries on the Police Department's special duty sign out sheet and/or on a departmental overtime request form. The above conduct is detrimental to the good order, efficiency and discipline of the Police Department and is in violation of Section 2.8 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

CHARGE V - MISCONDUCT

Specification 1

Violation of Department Rules and Regulations

You accepted an assignment to perform special duty work on April 20, 2005 at Coligni Avenue and Webster Avenue from 1200 hours to 1530 hours. You submitted a request for three and one-half hours of overtime pay for special duty work allegedly performed at Coligni and Webster Avenues from 1200 hours to 1530 hours on April 20, 2005. You failed or neglected, however, to make an entry in your Department-issued memorandum book regarding any special duty work allegedly performed by you on April 20, 2004. Your failure to make a complete and accurate accounting of any work performed by you on the special duty at Coligni Avenue and Webster Avenue on April 20, 2005 is in violation of Section 1.29 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

CHARGE VI - MISCONDUCT

Specification 1

Violation of Department Rules and Regulations

On or about May 6, 2005 you were interviewed by Captain Kevin S. Kealy as part of a departmental investigation into a report that you made a false or inaccurate overtime request for special duty work allegedly performed by you at Coligni Avenue and Webster Avenue from 1200 hours to 1530 hours on April 20, 2005. During that interview, you stated in words or substance that you reported to the special detail at 1200 hours on April 20, 2005 and that you did not return to Police Headquarters until 1530 hours on April 20, 2005. Your statement to Captain Kealy during this departmental investigation was inaccurate and false. You thus failed to truthfully answer a question posed to you during a Police Department investigation. The above conduct constitutes a failure to cooperate in a truthful manner with a departmental investigation in violation of Section 2.23 of the Rules and Regulations of the New Rochelle Police Department. This is misconduct.

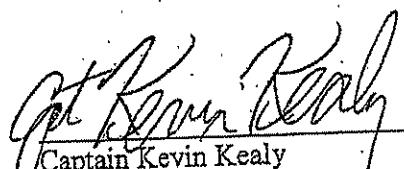
You are entitled to answer the above charges. The answer is due eight (8) days after the charges are served upon you, not counting the day you receive the charges. The answer should be served upon Captain Kevin Kealy at his office at the New Rochelle Police Department no later than 4:30 p.m. on that date.

You are entitled to a hearing on the charges and to be represented by an attorney or a representative of your Union. A transcript will be made of the proceedings and you should be prepared at the hearing to present such witnesses and other proof as you may have in your defense against the charges.

You will be advised of the time and place of the hearing. If you are found guilty of the above charges, the penalty or punishment imposed upon you may consist of either dismissal from the Department, demotion in grade or title, suspension without pay, a fine, or a reprimand.

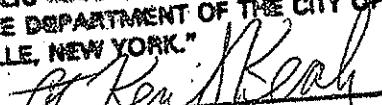
All future correspondence regarding this matter will be served upon you at your last address on file with the Department unless you advise me to the contrary.

Dated: May 19, 2005


Captain Kevin Kealy
Commanding Officer - Staff Services
City of New Rochelle

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Captain Kevin Kealy
Communications and Records Bureau

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